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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BROWN & MICHAELS, PC 400 M & T BANK BUILDING 118 NORTH TIOGA ST ITHACA, NY 14850			EXAMINER BOSWELL, BETH V	
			ART UNIT 3623	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/021,375

Applicant(s)

RICHARDS ET AL.

Examiner

Beth V. Boswell

Art Unit

3623

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-13 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-13 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a Final Office action in response to communications received 08/21/08. Claim 1 has been amended. Claims 1-3, 7-13, and 15-18 are pending.

Response to Amendment

2. Applicant's amendments to the specification are sufficient to overcome the specification objections set forth in the previous office action.
3. Applicant's amendments to claim 1 are sufficient to overcome the claim objections set forth in the previous office action.
4. The 35 USC 112, second paragraph, rejections of claims 1-3 and 7-11 have been withdrawn.

Response to Arguments

5. Applicant's arguments with regards to Sapphire ("*Delivering the Goods: Benefits of Reusable Shipping Containers*") in view of Meehan et al. (U.S. 2002/0029187) have been fully considered but they are not persuasive. In the remarks, Applicant argues that (1) unlike the Sapphire reference, Applicant's are claiming a method of working with independent original shippers to facilitate the return of specific shipping platforms to their original owners (i.e. a system where it is possible to reconnect specific shipping platforms with their original shippers), (2) Sapphire does not teaches that the shipping containers go back necessarily to the same suppliers, whereas the claims provide for the specific platforms to reconnect with their original shipper, (3) unlike Meehan, the only way for the users of the claimed invention to be directed to the coordinator's website is to find the site address stenciled on the platform.

In response to argument (1), Examiner respectfully disagrees. It is noted that the features upon which applicant relies (i.e., independent original shippers) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner further notes that the limitations recited in claim 1 do not preclude an association between the original shippers, the coordinator, and an end recipient. Further, a set of shipping containers/platforms are circulated through the life cycle of Sapphire, such as shown in figure 3 on page 21. Thus, the original shipper does regain use of the platforms as they circulate in the system.

In response to argument (2), Examiner respectfully disagrees. The system of Sapphire has a set of containers/platforms that cycle from the coordinator to the growers/packers (original shipper) to the retailers (end recipients) and back through the coordinator. See pages 20-22, and specifically figure 3. Examiner notes that claim 1 recites that identifiers are issued for specifically identified shipping platforms and specifically identified shipping platforms are associated with their original shippers. In Sapphire, the growers/packers (original shipper) lease platforms from the third party system, the platforms are specifically associated with this user and a deposit system follows to signify this fact. These platforms specifically identified as IFCO platforms. Thus, the platforms that circulate the system of Sapphire and return to the original shippers are part of the set of platforms associated with IFCO.

In response to argument (3), Examiner points out that the platform is not marked with a symbol identifying the coordinator until claim 2 and that the platform is not marked with the address of a computer site until claim 3. Thus, claim 1 does not require these features. Further,

the claims do not prohibit a user from finding the computer address by other means, the claims merely require that a symbol and computer site address are marked on the platform. Examiner notes that Meehan was not relied upon to teach a symbol and computer site address being marked on the platform. With regards to claim 2, Chep was relied upon to teach marking the identification with a symbol representing a coordinator onto a plurality of the specifically identified shipping platforms (See reference C, page 3, section 1, pages 4-5, page 6, section 1, wherein a plurality of shipping platforms are marked with a symbol/CHEP logo). With regards to claim 3, Official notice was taken that labeling a product with a logo including a website address is well known in e-commerce as a way to pass on information to a user concerning the product. Examiner notes that Applicant has not challenged this noticed fact and thus it is taken as admitted prior art. Therefore, the prior art does teach and suggest the claim limitations.

6. Applicant's arguments with regards to Sapphire in view of Meehan et al. and in further view of Chep (Screenshots of Chep.com (www.chep.com) and article "Outlook for Third-Party Management" by LeBlanc) have been fully considered but they are not persuasive. In the remarks, Applicant argues that (4) Chep never transfers ownership of the shipping platforms and thus does not remedy the deficiencies of Sapphire and Meehan et al. and (5) it would not be obvious to combine these prior art references.

In response to argument (4), Examiner respectfully disagrees. Chep was relied upon to teach marking a platform with a symbol representing a coordinator and was not relied upon to teach transferring ownership of a shipping platform. Further, Sapphire teaches that the growers/packers (original shipper) lease platforms from the third party system and thus the

platforms are specifically associated with this user and a deposit system follows to signify this fact. Further, there is not requirement in the claim that the ownership of the platform be transferred. The claims recite a method for retrieving shipping platforms that have been sent and money changing hands, but there is no recitation concerning ownership per se.

In response to argument (5), Examiner respectfully disagrees. In the current application, all the prior art references are within the field of applicant's endeavor and/or are reasonably pertinent to the particular problem with which the applicant was concerned. Sapphire discloses a third party system that involves three parties in a platform exchange where the grower/packer leases shipping platforms so that these packages are associated with the original shipper in the system and wherein the packages transition to an end recipient. The end recipient trades the platforms to the coordinator in exchange for money and the coordinator passes the platform back to the original shipper in exchange for more money than that which was passed to the end recipient retailer. Meehan discloses a specific electronic interface for exchanging items, this electronic interface exchanging money through selling the item. Both are concerned with the passing of goods from one entity to another through a central coordinator. Further, Chep is merely relied upon to disclose markings placed on the items being exchanged. Examiner again notes that these markings are not claimed in a manner that functionally effects the method steps claimed. Therefore, it would be obvious to combine the references in order to more efficiently facilitate the acquiring of items between parties and in order to more efficiently retrieve and reuse shipping platforms. See paragraph 9, 23, and 27 of Meehan et al. and pages 21-23, and specifically figure 3, of Sapphire.

7. Applicant's arguments with regards to Saphire in view of Meehan et al. and in further view of Canadian Pallet Council (CPC) (www.cpcpallet.com) have been fully considered but they are not persuasive. In the remarks, Applicant argues that (6) CPC does not remedy the deficiencies of Saphire and Meehan et al. because the platforms are already owned by another company or manager and thus does not identify lost pallets and provide an end recipient a mechanism by which a specific pallet can be reunited with its original shipper through a coordinator.

In response to argument (6), Examiner respectfully disagrees. First, it is noted that the features upon which applicant relies (i.e., lost pallets) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner does believe that Saphire in view of Meehan et al. does teach and suggest the claims for the reasons explained above and the reasons asserted below in the art rejections. Examiner notes that CPC was solely relied upon to teach repair standards, specifically presenting and storing information on repair standards for the shipping platforms on a computer site, wherein the shipping platforms are repaired in accordance with the repair standards (See page 2, section 1, page 4, section 1, page 6, section 1, page 7, page 8, which disclose repair information and standards, wherein qualified persons repair the shipping platforms in accordance with the standards). CPC further discloses that this file includes repair standards that comprise at least one item selected from a list comprising: a description of repair policy; general guidelines; stringer board repairs; excessive wear and tear and contamination; nails and hardware; and lumber that can be used to repair the shipping platforms (See page 2, section 1, page 4, section 1,

page 6, section 1, page 7, page 8, which discusses the uniform specifications of the pallet, used in repairs, such as repair policy, contamination, nails and hardware, etc.).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 4, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saphire (“*Delivering the Goods: Benefits of Reusable Shipping Containers*”) in view of Meehan et al. (U.S. 2002/0029187).

As per claim 1, Saphire teaches a method for retrieving specifically identified shipping platforms which have been sent by a plurality of original shippers to a plurality of end recipients through a coordinator for reuse by the original shipper, wherein the method comprises a coordinator, an end recipient, and an original shipper, wherein each shipping platform is associated with its original shipper (See pages 20-22, and specifically figure 3, wherein a third party reclamation system is disclosed and wherein the coordinator is the IFCO, the original shipper is the grower or packer and the end recipient is the retailer. Since the grower or packer leases the platforms from the third party system, the platforms are specifically associated with this user and a deposit system follows to signify this fact), (e) wherein the coordinator coordinated shipment of the specifically identified shipping platforms from the end recipient to the original shipper (See pages 21-23, and specifically figure 3, wherein the coordinator

facilitates the return of the packages to the original shipper via the life cycle set forth), (f) the end recipient giving the specifically identified shipping platforms to the coordinator in exchange for money (See pages 21-23, and specifically figure 3, the end recipient (retailer) exchanges the shipping platforms to the coordinator (IFCO) in exchange for money (the deposit)); wherein the original shipper pays the coordinator an amount for the specifically identified shipping platforms (the lease and the deposit) and the coordinator pays the end recipient a percentage of this amount (just the deposit) (See pages 21-23, and specifically figure 3).

However, while Saphire teaches a coordinator, Saphire does not expressly disclose the specific interface of the coordinator with the other parties. Further, while Saphire teaches an exchange of moneys in the system, Saphire does not expressly disclose selling the item or a sales amount.

Meehan et al. teaches a method comprising the steps of:

a) the coordinator issuing a separate identifier for the specifically identified items (See paragraph 9-10, 23, 27, wherein different categories are established by the coordinator/site that identify types of items);

b) the coordinator creating a remotely accessible file describing each of the specifically identified items on a computer site (See paragraphs 9, 19, 23, and 27, wherein a database with files are created on the computer site of the coordinator), in which each item descriptions are associated with an first party. The first user is registered in the system with a profile containing a description of items of interest to the user);

c) the coordinator accepting a listing from a second party of at least one item of one of one of the specifically identified items identified in step (a) for sale at the computer site (See paragraph 9-10, 23, wherein an item is listed for sale);

d) the coordinator notifying the first party associated in step (b) with the specifically identifies item of the listing of the at least one item listed by the second party in step (c) (See paragraphs 23 and 27, wherein the first user is notified of the sale of an item based on the type/category of the item and the specific description of an item). Examiner notes that the language “*wherein* the shipper *may* ask for more information regarding the shipping platforms listed on the coordinator’s computer site, the coordinator notifying the end recipient for more information, the end recipient supplying the information to the original shipper, the coordinator settling upon an agreed upon amount for the specifically identified shipping platforms” does not limit the scope of the claim because it suggests or makes optional but does not require steps to be performed. See MPEP 2105 II (C) and 2111.04.

Saphire discloses a third party system that involves three parties in a platform exchange where the grower/packer leases shipping platforms so that these packages are associated with the original shipper in the system and wherein the packages transition to an end recipient. The end recipient trades the platforms to the coordinator in exchange for money and the coordinator passes the platform back to the original shipper in exchange for more money then that which was passed to the end recipient retailer. Meehan discloses a specific electronic interface for exchanging the items, this electronic interface exchanging money through selling the item. It would have been obvious to one of ordinary skill in the art at the time of the invention to include that the interface of Meehan et al. in the third party shipping platform system of Saphire in order

to more efficiently facilitate the acquiring of items between parties and in order to more efficiently retrieve and reuse shipping platforms. See paragraph 9, 23, and 27 of Meehan et al. and pages 21-23, and specifically figure 3, of Sapphire.

As per claims 10-11, Sapphire teaches a method for retrieving specifically identified shipping platforms which have been sent by a plurality of original shippers to a plurality of end recipients through a coordinator for reuse by the original shipper, wherein the method comprises a coordinator, an end recipient, and an original shipper, wherein each shipping platform is associated with its original shipper (See pages 20-22, and specifically figure 3, wherein a third party reclamation system is disclosed and wherein the coordinator is the IFCO, the original shipper is the grower or packer and the end recipient is the retailer. Since the grower or packer leases the platforms from the third party system, the platforms are specifically associated with this user and a deposit system follows to signify this fact).

Meehan et al. discloses issuing an identification for an item based on a specifically identified item associated with the original user's profile (See paragraph 9-10, 23, wherein an item is listed for sale). Meehan et al. further discloses wherein the file created in step (b) comprises item specifications (See paragraphs 9-10).

Sapphire discloses a third party system that involves three parties in a platform exchange where the grower/packer leases shipping platforms so that these packages are associated with the original shipper in the system and wherein the packages transition to an end recipient. The end recipient trades the platforms to the coordinator in exchange for money and the coordinator passes the platform back to the original shipper in exchange for more money then that which was passed to the end recipient retailer. Meehan discloses a specific electronic interface for

exchanging the items, this electronic interface exchanging money through selling the item. It would have been obvious to one of ordinary skill in the art at the time of the invention to include that the interface of Meehan et al. in the third party shipping platform system of Saphire in order to more efficiently facilitate the acquiring of items between parties and in order to more efficiently retrieve and reuse shipping platforms. See paragraph 9, 23, and 27 of Meehan et al. and pages 21-23, and specifically figure 3, of Saphire.

10. Claims 2-3, 12-13, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saphire ("*Delivering the Goods: Benefits of Reusable Shipping Containers*") in view of Meehan et al. (U.S. 2002/0029187) and in further view of Chep. The following disclose aspects and features of Chep:

- i. Screenshots of Chep.com (www.chep.com) retrieved from archive.org, dated 6/20/2001 (referred to herein as reference C);
- ii. Article "Outlook for Third-Party Management" by LeBlanc, dated 03/01/1999 (referred to herein as reference D).

As per claims 2-3, neither Saphire nor Meehan et al. expressly disclose and Chep discloses, after step (a), of marking the identification with a symbol representing a coordinator onto a plurality of the specifically identified shipping platforms (See reference C, page 3, section 1, pages 4-5, page 6, section 1, wherein a plurality of shipping platforms are marked with a symbol/CHEP logo).

Both Meehan et al., Sapphire, and Chep are all concerned with the movement of goods. Sapphire discloses a third party system that involves three parties in a platform exchange where the grower/packer leases shipping platforms so that these packages are associated with the original shipper in the system and wherein the packages transition to an end recipient. The end recipient trades the platforms to the coordinator in exchange for money and the coordinator passes the platform back to the original shipper in exchange for more money than that which was passed to the end recipient retailer. Meehan discloses a specific electronic interface for exchanging the items, this electronic interface exchanging money through selling the item. Finally, Chep discloses that shipping platforms are labeled with an identification mark. It would have been obvious to one of ordinary skill in the art at the time of the invention to include marking the platform of Sapphire using the marking method of Chep in order to more efficiently identify the asset to members of the third party system.

However, while Chep discloses marking the platform with a logo, Chep.com does not expressly disclose that the logo includes marking the address for the computer site on the specifically identified shipping platforms.

Chep also discloses the reuse and exchange of shipping platforms, the platforms being marked by a logo for identification. Labeling a product with a logo including a website address is well known in e-commerce as a way to pass on information to a user concerning the product. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a website address in the logo of Chep in order to increase the recognition and knowledge of the platform by providing a means to identify and locate information

concerning the platform. See reference C, page 6, that discusses identifying markings on the shipping platforms.

As per claim 12, claim 12 recites substantially similar limitations to claims 1 and 2 above and is therefore rejected using the same art and rationale set forth above. Further, Sapphire discloses c) shipping products on at least some of the plurality of shipping platforms to at least one end recipient (See pages 20-22, and specifically figure 3, wherein goods are shipped on the platforms).

Meehan et al., Chep, and Sapphire are combinable for the same reasons and motivation set forth above with respect to claims 1 and 2.

Claims 13, 15-16, and 17-18 recite substantially similar limitations to claims 3, 7-8, and 10-11, respectively, and are therefore rejected using the same art and rationale set forth above.

11. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sapphire (*"Delivering the Goods: Benefits of Reusable Shipping Containers"*) in view of Meehan et al. (U.S. 2002/0029187) and in further view of Canadian Pallet Council (CPC) (www.cpcpallet.com).

As per claims 7-9, Sapphire discloses shipping platforms (See pages 20-22, and specifically figure 3). However, neither Sapphire nor Meehan et al. expressly disclose repair standards associated with the listed items.

CPC discloses presenting and storing information on repair standards for the shipping platforms on a computer site, wherein the shipping platforms are repaired in accordance with the repair standards (See page 2, section 1, page 4, section 1, page 6, section 1, page 7, page 8,

which disclose repair information and standards, wherein qualified persons repair the shipping platforms in accordance with the standards). CPC further discloses that this file includes repair standards that comprise at least one item selected from a list comprising: a description of repair policy; general guidelines; stringer board repairs; excessive wear and tear and contamination; nails and hardware; and lumber that can be used to repair the shipping platforms (See page 2, section 1, page 4, section 1, page 6, section 1, page 7, page 8, which discusses the uniform specifications of the pallet, used in repairs, such as repair policy, contamination, nails and hardware, etc.).

Meehan et al. and Sapphire are combinable for the reasons set forth above. Further, Sapphire is specifically concerned with reuse of shipping containers. CPC discloses repair standard information for reusable shipping platforms. It would have been obvious to one of ordinary skill in the art at the time of the invention to include repair standards for the shipping containers of Sapphire in order to increase reusability and user confidence in the product (i.e. platforms) by presenting the standards used to maintain the products of the third party manager.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Beth V. Boswell at telephone number (571)272-6737.

/Beth V. Boswell/

Supervisory Patent Examiner, Art Unit 3623